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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
CIRCA INC.,

Plaintiff,

MEL BERNIE and COMPANY, INC.,

Defendant.

**CASE NO.: 07 CV 10265**

**STIPULATION OF SETTLEMENT  
AND ORDER OF DISMISSAL  
WITH PREJUDICE**

-----X  
MEL BERNIE and COMPANY, INC.,  
  
Counterclaimant,  
  
v.  
CIRCA INC. and ROES 1-10, inclusive,  
  
Counterclaim Defendants.  
-----X

WHEREAS, plaintiff and counterclaim defendant Circa Inc. filed a complaint on November 13, 2007, requesting declaratory relief and alleging Non-Infringement of Defendant's Trademark Rights, and Non-Violation of State and Federal Unfair Competition of False Advertising;

WHEREAS, defendant and counterclaimant filed an answer and counterclaims on January 4, 2008, alleging Trademark Infringement, False Designation of Origin, Cyberpiracy, Common Law Trademark Infringement, California Statutory Unfair Competition, California Common Law Unfair Competition, Accounting, and Constructive trust;

WHEREAS, the parties are interested in resolving the issues alleged in the complaint and counterclaim in this action, and have negotiated in good faith for that purpose; and

WHEREAS, none of the parties in the above-captioned action is an infant or incompetent person; and

WHEREAS, the parties in the above-captioned action wish to discontinue the litigation;

IT IS HEREBY STIPULATED AND AGREED by and between the parties and/or their respective counsel as follows:

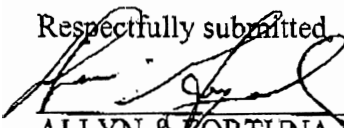
1. The parties hereby agree that the above-captioned action is dismissed and discontinued with prejudice, as to the named defendants and counterclaim defendants, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

2. Any and all claims for damages which are the subject of this action or otherwise arise out of any of the incidents alleged in the Complaint and Counterclaim are hereby settled pursuant to a settlement agreement between the parties.
3. The defendant and counterclaimant, Mel Bernie and Company, Inc. hereby releases the plaintiff and counterclaim defendant, Circa Inc. in its individual and official capacities, and its heirs, executors, administrators and assigns, from any and all claims, liabilities and cause of action related to or arising out of any and all of the events set forth in the Counterclaim in the above-captioned action.
4. The plaintiff and counterclaim defendant, Circa Inc. hereby releases the defendant and counterclaimant, Mel Bernie and Company, Inc in its individual and official capacities, and its heirs, executors, administrators and assigns, from any and all claims, liabilities and cause of action related to or arising out of any and all of the events set forth in the Complaint in the above-captioned action.
5. Nothing in this So Ordered Stipulation of Settlement shall be construed as an admission or concession of liability whatsoever by any of the plaintiff, counterclaimant, defendant or counterclaim defendant regarding any of the allegations made by the plaintiff, counterclaimant, defendant or counterclaim defendant in the Complaint or Counterclaim.
6. This Stipulation of Settlement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or proceeding as evidence or for any other purpose except in an action or proceeding to enforce this Stipulation of Settlement.

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Respectfully submitted,

  
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and

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SO ORDERED:

Dated: New York, New York

\_\_\_\_\_, 20\_\_\_\_



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\_\_\_\_\_  
United States District/Magistrate Judge